

UNITED STATES COURT OF APPEALS February 27, 2008  
FOR THE TENTH CIRCUIT Elisabeth A. Shumaker  
Clerk of Court

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NATHANIEL HARVEY,

Plaintiff - Appellant,

v.

T.S.M. GREGORY, Warden of Facility;  
S. FULLER, Programs Coordinator;  
ADAMS COUNTY SHERIFF'S  
DEPARTMENT; ADAMS COUNTY,

Defendants - Appellees.

No. 08-1044  
(D.C. No. 1:05-CV-01090-BNB-CBS)

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ORDER

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Before **KELLY, BRISCOE**, and **GORSUCH**, Circuit Judges.

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This court lacks jurisdiction over this appeal because the order being appealed is not final or otherwise immediately appealable, and no exception to the final judgment rule is present here.

The plaintiff has appealed an order entered by the magistrate judge vacating a previously scheduled pretrial conference. The plaintiff did not ask the district court to review the order, and the district court has not otherwise reviewed the order. Moreover,


neither a final order disposing of all claims against all parties nor a final judgment has been entered.

This court has jurisdiction to review only final decisions, 28 U.S.C. § 1291, and specific types of interlocutory orders. A final decision is one that disposes of all issues on the merits and leaves nothing for the court to do but execute the judgment. Quackenbush v. Allstate Ins. Co., 517 U.S. 706, 712 (1996); Atiya v. Salk Lake County, 988 F.2d 1013, 1016 (10th Cir. 1993). As an initial matter, orders entered by magistrate judges and not acted upon by the district court are generally not final and appealable. See Phillips v. Beierwaltes, 466 F.3d 1217, 1222 (10th Cir. 2006).

More importantly, however, interlocutory procedural orders such as the one at issue here are not immediately appealable, even if entered by the district court. Arthur Anderson & Co. v. Finesilver, 546 F.2d 338, 342 (10th Cir. 1976) (“Every interlocutory order involves, to some degree, a potential loss or harm. That risk, however, must be balanced against the need for efficient federal judicial administration, the need for the appellate courts to be free from the harassment of fragmentary and piecemeal review of cases otherwise resulting from a succession of appeals from the various rulings which might arise during the course of litigation.” (internal quotations omitted)); Manufacturers Cas. Ins. Co. v. Arapahoe Drilling Co., 267 F.2d 5, 6-7 (10th Cir. 1959) (stating that litigants may not seek piecemeal review of procedural incidents to lawsuit).

**APPEAL DISMISSED.** The mandate shall issue forthwith.

Entered for the Court  
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script that reads "Lara Smith".

by: Lara Smith  
Counsel to the Clerk